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December 9, 2001

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Subject: Microsoft Settlement

Dear Renata:

In response to the recent ruling regarding the Microsoft antitrust case, I would like to place my comments into the public record regarding the proposed settlement between the Department of Justice and Microsoft. I would like to address a few items that make the proposed settlement both ineffective and considerably flawed.

First, in regard to the proposed identification of who is and who is not eligible for disclosure of APIs by Microsoft, the exclusion of noncommercial entities from this remedy is both inadequate and will serve to further hamper free programs like Apache Web server and Sendmail. These programs are direct competitors of Microsoft's IIS and Exchange Servers, and they will not receive any API assistance that is guaranteed to commercial competitors.

Open Source products designed to allow free operating systems like OpenBSD and Linux to talk to Windows over networks would be irrevocably crushed by this loophole. Section III(J)(2), part (c) specifically hinders any free software from benefiting from Microsoft's published APIs by the language:

> ...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ...

Second, the remedy should address the incorporation of Microsoft products such as Internet Explorer and Windows Media Player without consent of the consumer during installation. It also should address the lack of an easy method to uninstall these programs should the consumer desire another 3rd
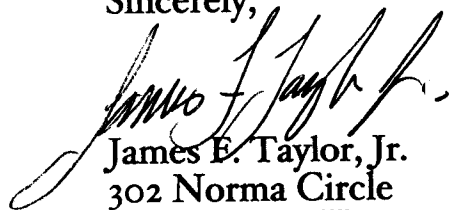
party tool to be used in place of the bundled applications. Microsoft is leveraging its OS monopoly against third party Vendors like Opera and MusicMatch Jukebox by bundling Internet Explorer and Windows Media Player without an uninstall or a choice during installation. Microsoft should, as part of the remedy, be forced to allow these tools to be removed or at the very least be uninstalled by both OEMs and end users. It is a simple remedy that Microsoft could comply with the next version of Windows or with a service pack for current Windows users.

Third, the remedy does not go far enough to force the publication of APIs and other interoperable portions, such as document formats, of Windows itself. These protocols should be open and subject to review from the entire industry. In addition, changes need to be decided not by Microsoft, who have proven time and again to cripple APIs to further their own programs at the expense of other third party programs. All of this was done without the consent of the user, and in most cases, was done without the user's knowledge as part of a "service pack" or other update to the program. All third party vendors of applications directly competing with Microsoft made their file formats and APIs known so the interoperability of their programs with Windows could be accomplished quickly. It is time for Microsoft to reciprocate without question or loophole.

Thank you for reading my comments, and I hope that these suggestions will be helpful in crafting a fair and equitable remedy that benefits not only the consumer, but Microsoft and its competitors. The computing landscape should not be as barren as it is today, with the ashes of hundreds of competitors to Microsoft crushed and broken by Microsoft's heavy-handed and illegal tactics. Despite
Microsoft's claim to the contrary, these remedies will not stifle innovation, and they will not hinder Microsoft in any way other than to prevent it from leveraging its market share against its competitors. If these remedies are enacted and the loopholes closed, Microsoft will have to do what it has not had to do for a long time in the marketplace. They will have to compete on merit and innovation, rather than crushing its competition under the boot of their monopoly.

I appreciate your time and attention.

Sincerely,

James E. Taylor, Jr.
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